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SUBJECT: RENEWING THE ARTICLE 98 PUSH

Classified By: Ambassador Kristie A. Kenney, Reasons 1.4 (b), (d)

11. (C) SUMMARY: Article 98 negotiations in Ecuador have stagnated of late. Two factors are to blame: continued push-back from the Embassy's prime interlocutors, the Foreign Ministry and Congress, and the Gutierrez government's focus on self-preservation in the face of impeachment proceedings. Cognizant that increasing deployments of U.S. forces worldwide makes inking an Article 98 with Ecuador imperative, we are conducting another offensive. Recent visits of USG VIPs have helped return the issue to GoE radar screens. Additionally, the Ecuadorian military's own plans to step up its fight against narcotraffickers will require greater U.S. military assistance, perhaps spurring them to fight (and defeat) the MFA in GoE interagency Article 98 battles. Finally, imminent turnover in legislative leadership positions offer us hope we can dilute (but not remove) opposition in Congress. END SUMMARY.

Negotiations Stuck in the Mud

12. (C) We have seen no movement on Article 98 since Secretary Powell's June visit to Quito for the OAS General

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Assembly. In a high-level bilat June 7, Ecuador President Lucio Gutierrez told the Secretary he had sought Congress's formal opinion on Article 98's constitutionality and appropriateness. We worried then, and are certain now, that Gutierrez's "consultations" were but a time-buying ruse. Meanwhile, the MFA's Article 98 point-of-contact has disappeared, and Congressional moderates' promises to raise the negotiations in committee meetings went nowhere.

13. (C) Autumn has seen Gutierrez hanging on by a thread. A broad-based Congressional coalition, including center-right, center-left, and indigenous political parties, initiated impeachment proceedings against him November 4. Each organization filed separate grounds for removal; misuse of public funds led the list, but poor defense of national sovereignty (by involving Ecuador in Plan Colombia, for example) was close behind. The administration won the first battle, as the opposition November 9 was unable to muster votes to form a Congressional investigatory committee. Gutierrez opponents claim they will fight on, however.

Visitors Underscore Article 98 Imperative

14. (C) Just two weeks ago, we could not imagine the administration re-engaging on Article 98, as the mere whiff of ongoing negotiations on the unpopular measure might have convinced teetering legislators to vote to impeach. The GoE emerged more confident after last week's legislative victory, however, and seems again willing to talk. Defense Secretary Donald Rumsfeld, in Quito for the Defense Ministerial of the Americas (DMA), raised Article 98 in a November 16 bilat with Gutierrez (Septel). While Gutierrez's response was regrettably old-hat - "I'm waiting for a Congressional green light before proceeding" - our impatience with the pace of talks undoubtedly registered with the Ecuadorian president (and foreign minister, who also attended). In addition, new Southcom commander General Bantz J. Craddock, also attending the Quito DMA, calls on Ecuador's minister of defense and service chiefs November 19. We expect Article 98's necessity to open his talking points.

Increasing GoE Ops Tempo Necessitates USG Assistance

15. (C) Despite bearing the totality of ASPA sanctions, Ecuador's military never lobbied hard for Article 98 in the GoE interagency. We surmise they might now rejoin the fight. New Joint Forces Chief Admiral Victor Rosero recognizes Ecuador's national security threats, shows vision, and takes chances. We could not say the same about his predecessor. We have received briefs recently on two politically sensitive initiatives - an EC offensive against narcotraffickers in Sucumbios province, and Ecuador's interest in establishing a

non-lethal Airbridge Denial (ABD) program - each requiring prior Rosero buy-in. For both, EC military leaders have requested USG military assistance.

16. (C) While non-ASPA-affected program monies could (and will) help support these initiatives, we are not missing any opportunities to flog the military over the need for Article 198. Big-ticket items, such as A-37 upgrades for ABD and additional helicopters for Sucumbios, are non-starters until we get an agreement, for example. Further, a joint special forces counter-terrorism operation, featuring Blackhawk helos, is underway near Quito. At its conclusion, we expect Ecuadorian battalion- and brigade-level officers to push their HQ superiors for similar goodies.

Additional Hope From Legislative, Government Changes

17. (C) We are convinced we cannot slip Article 98 by Ecuador's suspicious, do-nothing Congress; engaging them now, even as a deal with the executive remains distant, seems proper. The current Congressional lineup is stocked with enemies, from President Guillermo Lándazuri (who owes Gutierrez the Article 98 response), to International Relations Committee Chairman Carlos Vallejo. Thankfully, the presidency, vice-presidency, and committee leadership turn over in January 2005, the mid-point of the legislative term. While we cannot predict their replacements, we can only see improvements. We will delay our outreach acceleration until the impeachment furor dies down, however, not wanting to throw Gutierrez's many opponents additional political ammunition.

18. (C) Finally, we require approachable MFA interlocutors, not the lackeys we endure now. The designated POC is particularly useless, regularly dodging our calls and burying our correspondence. In higher-level Embassy-MFA gatherings, we will request that our counterparts name serious officers to staff their side.

COMMENT:

19. (C) Regrettably, Article 98 seems as distant now as in July 2002, when we began the diplomatic effort. The MFA continues to believe it can wait us out. It cannot. We are helped by Washington re-opening the second front, calling in Ecuadorian Ambassador Raul Gangotena for meetings with Assistant Secretaries Roger Noriega and Steven Rademaker. From Quito, Post will report regularly and often on its own renewed push toward securing a deal. END COMMENT.

KENNEY